IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 3529 of 2006
Date of decision : 9.01.2007

State of Punjab through Collector, Gurdaspur & Ors.

.....Petitioners.

Versus

Smt. Santosh.

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.H.S. Gill, D.A.G., Punjab
for the petitioners.

Mr. R.S. Gill, Advocate.

****

VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 5.5.2004 passed by the learned Civil Judge (Sr. Divn.), Gurdaspur vide which the defence of the petitioner was ordered to be struck off for not filing the written statement within a period of 90 days.

Thereafter, by way of order dated 26.4.2005, the application moved by the petitioners for setting aside the order dated 5.5.2004 was also dismissed.

In view of the judgment of the Hon'ble Supreme Court in case ***Shaikh Salim Abdul Khayamsab Vs. Kumar and others (2006-1) PLR 284*** the provisions of Order 8 Rule 1 C.P.C. are directory and not mandatory and, therefore, it was open to the Court to grant time to file written statement beyond period of 90 days. Though, petitioners have failed to give any justification for not filing the written statement in spite of availing number of opportunities. I feel that interest of justice would be served if the

petitioner is granted one last opportunity to file the written statement on the date to be fixed by the trial Court. Accordingly, this revision is allowed. The impugned order is set aside. The petitioners are granted one last opportunity to file the written statement on the date to be fixed by the trial Court. However, this shall be subject to payment of Rs. 5000/- as costs.

9.1.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**